

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sylvia Davidovicz	Team: Squad #12	CCRB Case #: 202003782	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 10:30 PM	Location of Incident: Church Avenue between Rogers Avenue and Bedford Avenue	Precinct: 67	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 05/31/2020 10:06 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 05/31/2020 10:06 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers used physical force against § 87(2)(b)	
B. An officer	Abuse: An officer damaged § 87(2)(b)'s property.	
C. An officer	Force: An officer used pepper spray against § 87(2)(b)	
D. Officers	Force: Officers used physical force against § 87(2)(b)	

Case Summary

On May 3, 2020, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System.

On May 31, 2020, at approximately 10:30 PM, at an unknown point on Church Avenue between Rogers Avenue and Bedford Avenue in Brooklyn, § 87(2)(b) who is a § 87(2)(b), was documenting an anti-police brutality protest. As she was walking on the sidewalk, an unknown number of unidentified officers pushed § 87(2)(b) to the ground from behind (**Allegation A - Force: Physical force**, § 87(2)(g)). As she fell, § 87(2)(b) dropped her phone and her camera. When she reached for her phone, an unidentified officer stepped on it in what § 87(2)(b) thought was an intentional manner and then kicked it out of § 87(2)(b)'s line of sight (**Allegation B - Abuse of Authority: Property damaged**, § 87(2)(g)). An unidentified officer deployed Oleoresin Capsicum (OC) spray at the back of § 87(2)(b)'s head (**Allegation C - Force: Pepper spray**, § 87(2)(g)). When § 87(2)(b) tried to turn around to retrieve her phone, officers pushed § 87(2)(b) forward with their legs until she was forced to stand up and walk away, leaving her phone and camera behind (**Allegation D - Force: Physical force**, § 87(2)(g)).

Pleading Language for all allegations to be closed as Officer Unidentified

Allegation (A) Force: Officers used physical force against § 87(2)(b)
Allegation (B) Abuse of Authority: An officer damaged § 87(2)(b)'s property.
Allegation (C) Force: An officer used pepper spray against § 87(2)(b)
Allegation (D) Force: Officers used physical force against § 87(2)(b)

Known facts and general descriptions

In her CCRB interview, § 87(2)(b) was not able to look directly at any of the subject officers during the incident. She was pushed and pepper-sprayed from behind and did not see if she was pushed by one or two officers. § 87(2)(b) only saw the legs of the officers who used their legs to shove her and the officer who kicked her phone. § 87(2)(b) stated that she believed that the subject officers were all male, wearing uniforms with vests and helmets, and possibly all above 5'10" tall, but could not provide any more identifying information. § 87(2)(b) was unable to confidently estimate the number of subject officers involved.

BWC

On June 24, 2020, the investigation received negative results for BWC video request based on a search for footage with the following parameters: 10:30 PM on May 30, 2020 through May 31, 2020 for the 67th Precinct, Critical Response Command, Strategic Response Group 3, and the Counterterrorism Bureau (Board Review 04).

A second BWC video request returned four BWC videos on July 15, 2020 (Board Review 06, 07, 08). None of these videos depict § 87(2)(b) or the incident.

A third BWC request returned eleven videos on September 3, 2020 (Board Review 14, relevant summaries in Board Review 17, 18). § 87(2)(b) is depicted in two of them, but she is not depicted interacting with any officers. All of the videos end before 10:30 PM.

A fourth BWC request calling only for videos depicting events at or after 10:30 PM returned

negative results on October 6, 2020 (Board Review 15).

NYPD Documents Reviewed

A handwritten detail roster from Patrol Bureau Brooklyn South lists the names of 24 officers from the 67th and 70th Precincts who were assigned to work on May 30, 2020 from approximately 7:00 AM to 3:45 PM (Board Review 03). The documents do not list a location, do not list officers from other commands, and do not indicate whether any of the listed officers were still working at 10:30 PM.

Requests for maps, pre-execution memoranda, and post-execution memoranda from Patrol Borough Brooklyn South returned negative results (Board Review 03). These requests also contained the detail rosters for May 29, 2020.

Other Evidence Reviewed

§ 87(2)(b) submitted four photographs to the investigation via email (Board Review 02). Two were screenshots of timestamped messages § 87(2)(b) sent to a friend before and after the incident. The message § 87(2)(b) stated was sent before the incident is timestamped 10:24 PM. The message § 87(2)(b) stated was sent after the incident is timestamped 10:51 PM. The third photo is a screenshot of a Google Streetview search depicting two buildings and labeled “2723 Church Ave.” § 87(2)(b) stated that this was the incident location. The fourth photograph depicts what § 87(2)(b) described as the knee contusion she sustained during this incident.

On June 15, 2020, Investigator Charlie Hartford performed fieldwork near the alleged incident location for CCRB 202003799, a complaint related to an incident that took place during the same protest on the night of May 30, 2020 (Board Review 05). Inv. Hartford canvassed buildings 2713, 2717, 2723, 2801, 2802, 2803, 2804, and 2812 Church Avenue for external surveillance cameras. Inv. Hartford did not recover any relevant surveillance footage.

Footage captured by TARU cameras located at the intersection of Church Avenue and Nostrand Avenue from 10:30 PM to 11:42 PM depicts no events relevant to the investigation (Board Review 09, 10).

Three cell phone videos originally submitted to the CCRB by a civilian for CCRB case 202004474 depict § 87(2)(b) standing near the intersection of Church Avenue and Bedford Avenue from 9:48 PM to 10:10 PM (Board Review 11, 12, 13). None of these videos depict § 87(2)(b) interacting with officers. Because the exact incident location is unknown, it cannot be determined how far § 87(2)(b) is from the incident location in these videos.

Concurrent Investigations

This complaint was made to the CCRB. There do not appear to be any concurrent investigations by any other agencies regarding this incident.

Ranking Officers

The detail roster lists the names of supervising officers from the 67th and 70th Precincts assigned to a detail at an unlisted location for a shift beginning at 7:05 AM and ending at 3:40 PM. It does not identify the ranking officer at the time of the incident or in the vicinity of the incident. The identity of the highest-ranking officer at the scene of the incident at 10:30 PM is unknown.

PO Marquez was the only officer identified by the investigation as being in the same area as § 87(2)(b) on the night of the incident. In his CCRB interview, PO Marquez stated that he received orders from a member of service whose name, rank, and command he did not know.

Officers Interviewed

Police Officer Johnny Marquez of SRG 3, shield number 13959, was interviewed on January 20, 2021. He was assigned to the 70th Precinct at the time of the incident. He was interviewed as a witness because his BWC video depicts § 87(2)(b) in the crowd of protesters at 9:47 PM.

In his CCRB interview, PO Marquez stated that he was stationed at the intersection of Church Avenue and Bedford Avenue on the night of the incident (Board Review 21). PO Marquez stated that he was positioned at the intersection with 50 to 60 other officers from the 70th Precinct or other precinct commands and that he did not believe any SRG officers responded to the protest. PO Marquez was shown clips from his BWC video in which § 87(2)(b) is depicted. PO Marquez stated that he did not interact with § 87(2)(b) on the night of the incident and did not witness any other officers interacting with § 87(2)(b). PO Marquez pushed about five civilians from the street to the sidewalk after receiving an order to remove civilians from the street. PO Marquez could not remember if any of the civilians he pushed fell to the ground. He did not push any civilians who were walking on the sidewalk and did not see any officers push civilians walking on the sidewalk to the ground. PO Marquez did not witness any incidents in which an officer stepped on and kicked a civilian's cell phone.

This interview did not lead to the identification of the subject officer. PO Marquez is not listed as a subject officer because there is no evidence suggesting that he interacted with § 87(2)(b) at any point in the night. There is no record of his activities after 10:12 PM.

Allegation Recitation and Disposition

The investigation made multiple efforts but was unable to obtain video depicting the incident, or video depicting the alleged incident location at the correct time. The NYPD did not provide a comprehensive list of all officers deployed to the protest. § 87(2)(b)'s statement contained no information that could be used to visually identify the subject officers. § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first complaint with the CCRB.
- The allegations in this case appear to be part of a larger pattern, in which CCRB investigations are unable to obtain adequate evidence toward the identification of officers in cases stemming from NYPD responses to the George Floyd and Black Lives Matter protests that occurred in the summer of 2020 due to unavailability of BWC video and lack of documentation.

Mediation, Civil and Criminal Histories

- Cases related to the George Floyd/Black Lives Matter/Anti-Police Brutality Protests of spring and summer 2020 were not eligible for mediation.

- According to the Office of Court Administration, § 87(2)(b) has no history of criminal convictions in New York City as of December 2, 2020 (Board Review 16).
- A FOIL request for any notices of claim made by § 87(2)(b) regarding this incident returned negative results (Board Review 20).

Squad No.: 12

Investigator: Sylvia Davidovicz Inv. Sylvia Davidovicz 02/24/2021
Signature Print Title & Name Date

Squad Leader: Carlmais Johnson IM Carlmais Johnson February 24, 2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date